

REMARKS

Claims 1 and 4-17 are all the claims pending in the application. Claims 11-17 are rejected. Claims 1 and 4-10 are withdrawn from consideration.

Claim to Priority

The Examiner states that "Applicant's claim for the benefit of a prior-filed provisional application is acknowledged. Applicant has not complied with the conditions for receiving the benefit of an earlier filing date under 37 CFR 1.78(a)(5)(iv) as follows:

"If the prior-filed provisional application was filed in a language other than English and both an English-language translation of the prior-filed provisional application and a statement that the translation is accurate were not previously filed in the prior-filed provisional application, applicant will be notified and given a period of time within which to file, in the prior-filed provisional application, the translation and the statement. If the notice is mailed in a pending nonprovisional application, a timely reply to such a notice must include the filing in the nonprovisional application of either a confirmation that the translation and statement were filed in the provisional application, or an amendment or..."

Applicants are submitting herewith a verified translation of the provisional application so that Applicants can take advantage of the benefit claimed.

Claim Rejections - 35 U.S.C. §102

Claims 11-17 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Isono et al (US 2005/0284179). This rejection is traversed for at least the following reasons.

Applicants note that the applied US 2005/0284179 reference has a common inventor, **Hideki Isono**, with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(a) or (e). This rejection under 35 U.S.C. 102(a) or (e) may be overcome by a showing under 37 CFR 1.132 that any invention

disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention "by another."

A declaration under Rule 132 providing the appropriate evidence of derivation from common inventor Isono accompanies this reply. Thus, this rejection would be overcome.

Claim Rejections - 35 U.S.C. §103

Claims 11-17 are rejected under 35 U.S.C. 103(a) as obvious over Isono et al (US 2005/0284179). This rejection is traversed for at least the following reasons.

Isono et al can be removed as a reference by Hoya Corporation asserting rights under 35 U.S.C. § 103(c).

In order to overcome a rejection on the basis of Isono et al, Hoya respectfully submits that *the subject matter of Isono et al and the claimed invention were, at the time the claimed invention was made, owned by Hoya Corporation or subject to an obligation of assignment to Hoya Corporation.* This assertion removes the Isono et al patent as prior art.

Double Patenting

Claims 11 to 17 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 6 and 15 of copending U.S. Patent Application No. 11/078324 (referencing the paragraphs of PG Publication SN 2005/0284179). This rejection is traversed for at least the following reasons.

Applicants are filing concurrently a Terminal Disclaimer. On the basis of such Terminal Disclaimer, the rejection would be overcome.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

AMENDMENT UNDER 37 C.F.R. § 1.111
Application No.: 10/594,248

Attorney Docket No.: Q80706

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,
/Alan J. Kasper/

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

Alan J. Kasper
Registration No. 25,426

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